

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

SEP 14 2020

U.S. DISTRICT COURT-WVND
MARTINSBURG, WV 26401

Tommy E. Goodson

Your full name

Bivens style Complaint
STATE CIVIL RIGHTS COMPLAINT
PURSUANT TO 42 U.S.C. § 1983

v.

Civil Action No.: 1:20cv227
(To be assigned by the Clerk of Court)

P.A. Pyle
P.R. Myers
P.A. Keith Bird
Warden Cockley

Kleeh / Alo / Williams

Enter above the full name of defendant(s) in this action

I. JURISDICTION

BIVENS in six unknown

This is a civil action brought pursuant to ~~42 U.S.C. § 1983~~. The Court has jurisdiction over this action pursuant to Title 28 U.S.C. §§ 1331 and 2201.

II. PARTIES

In Item A below, place your full name, inmate number, place of detention, and complete mailing address in the space provided.

A. Your Name: Tommy E. Goodson
Inmate No.: 18449-039
Address: P.O. Box 6000, Glenville, WV 26351

In Item B below, place the full name of each defendant, his or her official position, place of employment, and address in the space provided.

B. Name of Defendant: P.A. Pyle

Attachment A

Position: Physicians Assistant
 Place of Employment: U.S.P. Hazelton
 Address: Hazelton, W Va.
Bruceston Mills, W Va 26583

Was this Defendant acting under the authority or color of state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: Defendant was
assigned to the Medical Dept at U.S.P.
Hazelton

B.1 Name of Defendant: P.A. Myers
 Position: Physicians Assistant
 Place of Employment: U.S.P. Hazelton
 Address: Hazelton, W Va
Bruceston Mills, W Va 26583

Was this Defendant acting under the authority or color of state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: Defendant was
assigned to the Medical Dept at U.S.P.
Hazelton

B.2 Name of Defendant: P.A. Leigh Bird
 Position: Physicians Assistant
 Place of Employment: U.S.P. Hazelton
 Address: Bruceston Mills, W Va 26583

Attachment A

Was this Defendant acting under the authority or color of state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: P.A. Bird was a supervisor in the Medical Dept at U.S. Penitentiary - Hazelton

B.3 Name of Defendant: Warden Cookley
Position: Warden
Place of Employment: Hazelton Complex
Address: Bruceston Mills, WV 26535

Was this Defendant acting under the authority or color of state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: Defendant was the Warden over U.S. Penitentiary at Hazelton

B.4 Name of Defendant: _____
Position: _____
Place of Employment: _____
Address: _____

Was this Defendant acting under the authority or color of state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: _____

Attachment A

B.5 Name of Defendant: _____
Position: _____
Place of Employment: _____
Address: _____

Was this Defendant acting under the authority or color of state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: _____

III. PLACE OF PRESENT CONFINEMENT

Name of Prison/Institution: FCI-Gilmer

A. Is this where the events concerning your complaint took place?
☐ Yes ☒ No

If you answered "NO," where did the events occur?
U.S. Penitentiary - Hazelton

B. Is there a prisoner grievance procedure in the institution where the events occurred? ☒ Yes ☐ No

C. Did you file a grievance concerning the facts relating to this complaint in the prisoner grievance procedure? ☒ Yes ☐ No

D. If your answer is "NO," explain why not _____

Attachment A

- _____

E. If your answer is "YES," identify the administrative grievance procedure number(s) in which the claims raised in this complaint were addressed and state the result at level one, level two, and level three. **ATTACH GRIEVANCES AND RESPONSES:**

LEVEL 1 Warden - Denied
LEVEL 2 Regional Director - Denied
LEVEL 3 Central Office - Denied

IV. **PREVIOUS LAWSUITS AND ADMINISTRATIVE REMEDIES**

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action? ☐ Yes ☒ No
- B. If your answer is "YES", describe each lawsuit in the space below. If there is more than one lawsuit, describe additional lawsuits using the same format on a separate piece of paper which you should attach and label: "TV PREVIOUS LAWSUITS"

1. Parties to this previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court: _____
(If federal court, name the district; if state court, name the county)

3. Case Number: _____

4. Basic Claim Made/Issues Raised: _____

5. Name of Judge(s) to whom case was assigned: _____

Attachment A

6. Disposition: _____
(For example, was the case dismissed? Appealed? Pending?)

7. Approximate date of filing lawsuit: _____

8. Approximate date of disposition. **ATTACH COPIES**

C. Did you seek informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part B? ☐ Yes ☐ No

D. If your answer is "YES," briefly describe how relief was sought and the result. If your answer is "NO," explain why administrative relief was not sought.

E. Did you exhaust available administrative remedies? ☐ Yes ☐ No

F. If your answer is "YES," briefly explain the steps taken and attach proof of exhaustion. If your answer is "NO," briefly explain why administrative remedies were not exhausted.

G. If you are requesting to proceed in this action *in forma pauperis* under 28 U.S.C. § 1915, list each civil action or appeal you filed in any court of the United States while you were incarcerated or detained in any facility that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using the same format on a separate sheet of paper which you should attach and label "G. PREVIOUSLY DISMISSED ACTIONS OR APPEALS"

Attachment A

1. Parties to previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Name and location of court and docket number:

3. Grounds for dismissal: ☐ frivolous ☐ malicious
☐ failure to state a claim upon which relief may be granted

4. Approximate date of filing lawsuit: _____

5. Approximate date of disposition: _____

V. STATEMENT OF CLAIM

State here, as **BRIEFLY** as possible, the facts of your case. Describe what each defendant did to violate your constitutional rights. You must include allegations of specific wrongful conduct as to **EACH** and **EVERY** defendant in the complaint. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, you must number and set forth each claim in a separate paragraph. **UNRELATED CLAIMS MUST BE RAISED IN A SEPARATE CIVIL ACTION. NO MORE THAN FIVE (5) TYPED OR TEN (10) NEATLY PRINTED PAGES MAY BE ATTACHED TO THIS COMPLAINT. (LR PL 3.4.4)**

CLAIM 1: Deliberate Indifference to a serious medical condition, all in violation of the Eighth Amendment

Supporting Facts: Defendants refused to provide any treatment, or medication, for the serious pain which the plaintiff was suffering from a kidney stone and infection. The Defendants refused to investigate the extreme

→ CONTINUED →

pain that the kidney stone was causing. I suffered for nine (9) days without being given any pain medication, or medical tests being conducted to determine the source or cause of my pain.

After the passage of nine days, and unable to urinate, the plaintiff had no choice but to make a suicide attempt in order to receive medical attention at a hospital.

The plaintiff took an overdose of various pills, which led to his being taken to a local hospital where attention was given to his kidney stone. It was removed by a surgeon.

These events occurred during the period of May 3, 2017, through May 10, 2017, at the U.S. Penitentiary Hazelton, West Virginia.

Attachment A

CLAIM 2: Defendants retaliated against the Plaintiff for developing a kidney stone.

Supporting Facts: Defendants permitted a Corrections officer to insert a needle into the Plaintiff's neck in an effort to start an IV, following his will override on 05-10-17. The officer was not trained to do so.

CLAIM 3: Plaintiff was punished to develop a kidney stone, contrary to 8th Amendment

Supporting Facts: Upon his discharge from hospital on 05-13-17, the Plaintiff was stored in the SHU for 2 weeks in retaliation for having a kidney stone, and surgery.

CLAIM 4: _____

Supporting Facts: _____

CLAIM 5: _____

Supporting Facts: _____

VI. INJURY

Attachment A

Describe **BRIEFLY** and **SPECIFICALLY** how you have been injured and the exact nature of your damages.

The plaintiff was caused to suffer great
pain, anxiety, and mental depression, and
continues to suffer from the experience.

VII. RELIEF

State **BRIEFLY** and **EXACTLY** what you want the Court to do for you.
Make no legal arguments. Cite no cases or statutes.

One Hundred Thousand Dollars in compensatory
damages on Count One; One Hundred Thousand
Dollars on Count Two; Two Hundred and Eighty
Thousand Dollars on Count Three; Punitive
Damages of Five Hundred Thousand Dollars

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and accurate. Title 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at FCR-Gilmer on September 9, 2020
(Location) (Date)
Tommy C. Goodson
Your Signature